

**Before the State of South Carolina
Department of Insurance**

In the matter of:

SCDOI File Number 123659

Forrest S. Smith
810 E. White Pines Drive,
Ladson, S.C. 29456

**Consent Order
Imposing Administrative Penalty**

This matter comes before me pursuant to an agreement entered into between the State of South Carolina Department of Insurance and the above referenced individual, a licensed South Carolina resident insurance producer.

Upon review of this matter, I hereby find as fact, that Forrest Smith, while licensed to do business as a resident insurance producer for the Goldsmith Theodore Agency, could have failed to provide sufficient information to at least two customers over their life insurance policies; action that allegedly resulted in the customers asking the Insurer for a refund of their monies. Mr. Smith, represented by legal counsel Andrew Litvin, acknowledges the allegation, but contends this failure could have resulted from inadvertence and oversight and not from any intent to avoid the requirements of the Law. Furthermore, he affirms that he offered the clients in reference a discount for multi-line policies, which was an optional condition agreed upon by all parties involved. Nevertheless, these actions can ultimately lead to the suspension or revocation of Mr. Smith's license to transact the business of insurance as producers in South Carolina, following a public hearing at the Administrative Law Court, pursuant to S.C. Code Ann. Section 38-43-130.

Prior to the initiation of any administrative proceedings by the Department against him, the parties agreed to submit the entire matter to me, along with their specific recommendation, for my summary decision, rather than to proceed toward a formal administrative hearing. The consensual recommendation was that, in lieu of the Department seeking to suspend or revoke respondent's license, and pursue criminal charges against him, he would waive his right to a public hearing, and pay a negotiated and consensual administrative penalty in the total amount of \$1,500.00 dollars to the Department.

After a thorough review of the record, and pursuant to my findings of fact, I hereby conclude as a matter of law, that Forrest Smith had violated Section 38-43-130 (C)(17)(Supp. 2004) of the South Carolina Code of Administrative Laws. As a result, I can now take administrative disciplinary action against his insurance producer's license. However, under the discretionary authority provided to me by the General Assembly within S.C. Code Ann. § 38-2-10 (2) (Supp. 2004) and carefully considering the recommendation of the parties, I hereby impose against respondent an administrative penalty in the amount of \$1,500.00 dollars, which he must pay within fifteen days from the date of receipt of this Consent Order. If that penalty is not timely paid, all of his licensing privileges will be immediately revoked without any further disciplinary proceedings and the case will be turned over to the Office of the Attorney General.

This administrative penalty has been reached by the parties as a result of negotiation and compromise, and it is made in consideration of Forrest Smith's assurances that in the future he shall exercise more caution and fully comply with the Insurance Laws of South Carolina. It is also made in view of the absence of a negative record or complaints within respondent's history.

This penalty includes all expenses related to the investigation of this matter as provided in § 38-13-70 of the South Carolina Code of Administrative Laws. The parties expressly agree and understand payment of the agreed-upon penalty shall constitute full accord and satisfaction of this matter. By his signature upon this consent order, Mr. Forrest S. Smith acknowledges that he understands that this administrative disciplinary order is a public record subject to the disclosure requirements of the State of South Carolina's *Freedom of Information Act*, S.C. Code Ann. §§ 30-4-10, *et seq.* (1991 and Supp. 2004).

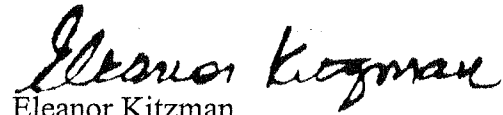
Nothing contained within this administrative order should be construed to limit, or to deprive any person of any private right of action under the law. Nothing contained within this administrative disciplinary order should be construed to limit, in any manner, the criminal jurisdiction of any law enforcement officer or judicial officer. Nothing contained within this administrative disciplinary order should be construed to limit the statutory duty of the Director of Insurance, pursuant to S.C. Code Ann. § 38-3-110 (4) (Supp. 2004), exercised either directly or through the Department of Insurance, to "report to the Attorney General or other appropriate law enforcement officials criminal violations of the laws relative to the business of insurance or the provisions of this title which he considers necessary to report."

It is, therefore, ordered that Forrest S. Smith shall, within fifteen days of the date of my signature on this consent order, pay through the South Carolina Department of Insurance an administrative penalty in the amount of \$1,500.00 dollars.

It is further ordered that a copy of this consent order be immediately transmitted to the National Association of Insurance Commissioners for distribution to its member states and a copy be placed in Mr. Smith's licensing file.

This consent order becomes effective as of the date of my signature below.

July 26, 2005
At Columbia, South Carolina


Eleanor Kitzman
Director

I CONSENT:



Signature

Forrest S. Smith IV

Printed Name

Agent

Title

Address:

810 E. White pines Dr.
Ladson, SC 29456

Dated this 19 day of , 2005.